

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

DEC 26 2001

DAVID
BY
DEPUTY

JULIO COLEGIO, et al.

8

8

28

8

9

1

3

1

◆

N

Civil Action No. 9:01 CV 161

v.

Plaintiffs,

EQUITABLE ACCEPTANCE CORP., et al.

Defendants

UNOPPOSED MOTION FOR EXTENSION OF TIME TO SERVE DEFENDANT

TO THE HONORABLE JUDGE HANNAH:

COME NOW Eduardo Hernandez, Manuel Padilla and Julio Colegio, Plaintiffs in the above-numbered and styled proceeding, and move this Court to extend the time for service on Defendant Jack Cali III, dba Cali Enterprises and Royalware Industries, and in support thereof would show the following:

1. This suit was filed on July 9, 2001. When this suit was originally filed, one of the listed defendants was a party identified as Royalware & New Era Inc. That defendant could not be served, because no such corporation could be identified through the corporate records of Texas, Missouri and Louisiana, the states where this business apparently operated. Through information provided by the Defendant Equitable Acceptance Corporation on December 11 and 19, 2001, Plaintiffs have been able to identify the identity of this defendant with more clarity and to obtain potential service addresses. As a result, Plaintiffs have amended their complaint to sue Jack Cali III, dba Cali Enterprises and Royalware Industries.

2. Under Fed.R.Civ.P. 4(m), all defendants are required to be served within 120 days after the filing of the lawsuit unless the Court extends the time for service. Plaintiffs request this Court

18

to extend the time to serve Jack Cali III, dba Cali Enterprises and Royalware Industries, until February 28, 2002, the joinder deadline in this case. If this motion is granted, Plaintiffs will attempt service on this defendant as soon as the Clerk of this Court issues a new citation.

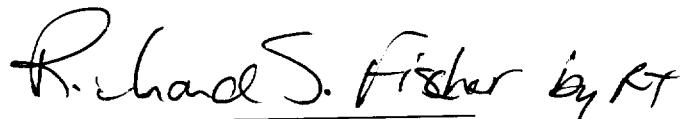
WHEREFORE, Plaintiffs pray that this Court extend the time for serving Defendant Jack Cali III, dba Cali Enterprises and Royalware Industries, until February 28, 2002 and for such other and further relief to which they may be entitled.

Respectfully submitted,



RICHARD TOMLINSON
One Greenway Plaza
Suite 100
Houston, Texas 77046
713/627-7747
Fax: 713/627-3035
State Bar No. 20123500

LEAD COUNSEL FOR PLAINTIFFS


by RT

RICHARD S. FISCHER
114 S. Pecan Street
Nacogdoches, Texas 75961
936/564-2222
Fax: 936-564-1346
State Bar No.: 07043100

*with
permission*

CO-COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

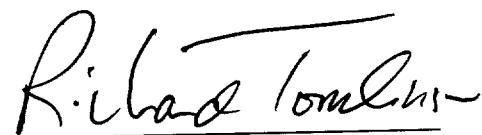
I hereby certify that a true and correct copy of the foregoing pleading has been forwarded to opposing counsel via certified mail, return receipt requested, on this the 20th day of December, 2001 as follows:

Donald L. Turbyfill
Devlin, Naylor & Turbyfill, P.L.L.C.
4801 Woodway, Suite 420-West
Houston, Texas 77056-1805


Richard Tomlinson

CERTIFICATE OF CONFERENCE

On December 17, 2001, the undersigned conferred with the new counsel for Defendant Equitable Acceptance Corporation, Donald L. Turbyfill. Equitable is the only defendant that has appeared in this action to date. Mr. Turbyfill reported that he did not oppose this motion.


Richard Tomlinson

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

JULIO COLEGIO, et al. §
§
Plaintiffs, §
§
v. § Civil Action No. 9:01 CV 161
§
EQUITABLE ACCEPTANCE CORP., et al. § Judge: Hannah
§
Defendants §

ORDER EXTENDING TIME TO SERVE DEFENDANT

On this day, came on to be heard the Unopposed Motion for Extension of Time to Serve Defendant filed in this cause by Plaintiffs. After considering this motion, the Court is of the opinion that this motion should be granted.

IT IS, THEREFORE, ORDERED that the Unopposed Motion for Extension of Time to Serve Defendant is hereby granted.

IT IS FURTHER ORDERED that Plaintiffs are granted leave to seek service on Defendant Jack Cali III, dba Cali Enterprises and Royalware Industries on or before February 28, 2002.

SIGNED this _____ day of _____, 2002.

UNITED STATES DISTRICT JUDGE